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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,421	01/18/2002	Tomasz Rudas	283702-13	6591
8933	7590	11/30/2004	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT ONE LIBERTY PLACE PHILADELPHIA, PA 19103-7396			BEISNER, WILLIAM H	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/031,421

Applicant(s)

RUDAS, TOMASZ

Examiner

William H. Beisner

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004 and 18 June 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 7-9, 13, 17-19, 22, 23, 28-31, 35, 39-41, 44, 45, 49-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 7-9, 13, 17-19, 22, 23, 28-31, 35, 39-41 and 44 is/are allowed.
- 6) ☒ Claim(s) 45, 49-52 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 54 recites that the apparatus includes a positively recited “at least one vessel”; a first recirculation means and a second recirculation means. The claim further recites that the first recirculation means is “for recirculating gases extracted from the or each vessel to a first storage means” and that the second recirculation means is “for recirculating water extracted from the or each vessel to a second storage means or an interconnected vessel”. The claim is indefinite because it is not clear from the instant claim language whether the recited “first storage means”; “second storage means” and/or “interconnected vessel” are considered to be part of the recited means and/or part of the positively recited apparatus. In view of the “means-plus-function” language employed in the claim, Applicant’s specification is required to adequately disclose the corresponding structures. While the specification specifically discloses the use of first and second “recirculation lines”, it is not readily apparent to one of ordinary skill in the art what additionally disclosed structures would be encompassed by the claimed “first recirculation means” and “second recirculation means” since the two means appear to include common elements. Also, do the means include the recited storage means or interconnected vessel? The specification does not resolve these questions. Since the specification does not clearly convey to

one of ordinary skill which structures correspond to the claimed means, applicants have failed to particularly point out and distinctly claim the invention as required by 35 USC 112, second paragraph.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 45 and 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergstrom (US 4,699,548).

With respect to claim 45, the reference of Bergstrom discloses an airtight pressurized vessel (14) that is capable of being use to perform anaerobic and/or aerobic digestion. The vessel (14) includes means (20, 22) for receiving organic waste, first feed means (32,34 or 46, 48) for supplying water to the vessel, and second feed means (28,30) for supplying air to the vessel. In view of the fluidization provided by the water feed means and the pressures capable of being provided by the water and air-feeding device, the device is capable of evenly distributing water and air to material held within the vessel. The instant disclosure discloses that the operating pressures provide the even distribution and the structure of the reference of Bergstrom are capable of providing and operating at the claimed pressures. The device is devoid of an internal agitation device.

With respect to claims 46-52, the vessel (14) of Bergstrom is capable of maintaining and/or operating at pressure of at least 8psi (55kPa)(See column 5, line 48, to column 6, line 7).

***Allowable Subject Matter***

5. Claims 1, 6-9, 13, 17-19, 22, 23, 28-31, 35 and 39-41 are allowed.
6. Claim 54 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. The following is a statement of reasons for the indication of allowable subject matter:  
Claims 1, 6-9, 13, 17-19, 22, 23, 28-31, 35 and 39-41 are allowed in view of Applicant's comments set forth on pages 14-16 of the response dated 18 June 2004.

Claim 54 would be allowable because the prior art of record fails to teach or fairly suggest the claimed apparatus that includes the recited pressure vessel in combination with a system for recirculating gases and water with respect to the vessel and other gas or liquid storage devices within the system.

***Response to Arguments***

8. Applicant's arguments and associated amendments to the claims, see pages 12-14, filed 18 June 2004, with respect to the rejection(s) of claim(s) 45 and 49-52 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bergstrom (US 4,699,548).

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

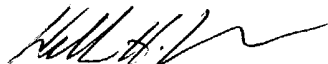
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 571-272-1269. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:15am to 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Beisner  
Primary Examiner  
Art Unit 1744

WHB